RECENT DECISIONS

ADVERSE POSSESSION—PUBLIC CORPORATIONS—WHETHER SUBJECT TO THE STATUTE OF LIMITATIONS.—The University of South Carolina was chartered by the Legislature, and has always been controlled and supported by the State. Certain lots were granted to it by the State as a part of this support. Later the City of Columbia was authorized to sell certain public lots in the city, which were not in use and were not held in trust by the State for any specific purpose. Under the authority to sell these lots. The City sold a certain lot which had been granted to the University, and for more than twenty years held the lot adversely to the University. The City claimed the land by adverse possession for the statutory period. *Held,* the statute of limitations can not be pleaded against the University. *Trustees of University of South Carolina* v. *City of Columbia* (S. C.), 93 S. S. 934. See NOTES, p. 209.

BILLS AND NOTES—DEFENSES—TRANSACTION OUT OF WHICH CONTRACT AROSE DECLARED ILLEGAL BY STATUTE.—The plaintiff was a bona fide holder for value of a negotiable note which had been given for services rendered by a physician. The physician was practicing without a certificate of qualification which was a violation of a criminal statute of the state. There was also a statute in effect which prohibited such physician from recovering compensation for his services. The plaintiff brought an action to recover on the note. *Held,* recovery is denied. *Whitehead* v. *Coker* (Ala.), 76 South. 484. See NOTES, p. 201.

BROKERS—RIGHT TO COMMISSION—PURCHASER "ABLE" TO BUY.—The plaintiff was employed by the defendant to sell certain real estate. The plaintiff found a buyer, who met with the defendant, but the parties failed to close the contract. At a later date, after the contract of agency had expired, the defendant entered into a binding contract with the person whom the plaintiff had introduced. The plaintiff sought to recover his commission, on the ground that he had found a customer ready, able and willing to buy. *Held,* to be "able" means that the purchaser must have the money at the time to make any cash payments that are required, and does not simply mean that the purchaser should have property upon which he could raise the amount of money necessary. *Reynor* v. *Mackrill* (Iowa), 164 N. W. 335.

It is generally agreed that to entitle a real estate broker to his commission he must procure a person, who is ready, able, and willing to purchase upon the terms specified by the principal. *Colburn* v. *Seymour,* 32 Colo. 430, 76 Pac. 1058, 2 Ann. Cas. 182. See 4 R. C. L. 307. And a broker who has found such a customer is entitled to his commission, even though the sale is afterwards consummated by the owner himself. *Smith* v. *Sharp,* 162 Ala. 433, 50 South. 381, 136 Am. St. Rep. 52. As to the owner's rights where he has granted an exclusive agency, see 2 VA. LAW REV. 618.

There has been some controversy as to the meaning of the term "able" as used in this connection. The instant case follows directly a decision rendered by the same court, in which it held that to be "able" means that the purchaser must have the money at the time to make any cash payments, and not simply own property from which he could raise the necessary amount. *Jones* v. *Ford,* 154 Iowa 549, 134 N. W. 569, 38 L. R. A. (N. S.) 777. It, however, repudiates an earlier case, in which a prospective buyer, who did not tender cash payment but could have procured the money necessary to make the cash payment, was held to be "able" to buy. *McDermott* v. *Mahoney,* 139 Iowa 292, 115 N. W. 32.

By the better view, the agent is not required to show that he secured a purchaser with the cash all in hand. It is a matter of common knowledge that very many contracts of real estate are carried out by the buyer obtaining part of the purchase money on a mortgage of the property itself. If the purchaser has his arrangements made so that the money will be forthcoming at the moment the deed is passed to him, no reason is perceived why he may not truly be said to be "able" to buy. *McCabe* v. *Jones,* 141 Wis. 540, 124 N. W. 486. As expressed by another court the word "able" means financially able. *Shaw* v. *Chiles,* 9 Ga. App. 460, 71 S. E. 745.

There is a conflict of authority as to who has the burden of proving whether or not the customer was ready, able, and willing to buy. By the better view, it is on the agent. *Russell* v. *Hurd,* 113 Ill. App. 63; *Colburn* v. *Seymour, supra.*

EJECTMENT—DEFENSES—OUTSTANDING LEGAL TITLE.—The plaintiff was the owner of a certain tract of land, on which there was an outstanding, unsatisfied deed of trust. The defendant was the owner of an adjoining tract, and a dispute arose as to the boundary between the two tracts. The plaintiff instituted an action of ejectment against the defendant to recover about fifty acres of the defendant's land. The defendant set up in defense to the action the outstanding deed of trust, claiming that the plaintiff did not have the legal title requisite to maintain ejectment. *Held,* the deed of trust is only a lien on the land, and the action lies. *Gravatt* v. *Lane* (Va.), 92 S. E. 912. See NOTES, p. 205.

INJUNCTION—INTERFERENCE WITH BUSINESS—POWER OF THE COURTS TO ENJOIN PICKETING.—The complainant employed union labor in his restaurant business and refused to discharge a cook who was in arrears for dues to a certain union. Thereupon, the union called a strike, and all of the union cooks and bakers left the complainant's employment. The union further caused pickets to be stationed in front of the complainant's stores, bearing placards denouncing the latter as being unfair to union labor. The picketing was carried to such extent that at times patrons could neither enter nor leave the restaurant, thus causing a great decline in the business. Complainant filed a bill to enjoin the picketing. *Held,* the injunction is granted. *St. Germain* v. *Bakery, etc., Union* (Wash.), 166 Pac. 665.

The term, picket, is borrowed from the nomenclature of warfare, and is